

# Public Health Emergency Law

CDC Foundational Course for Front-line Practitioners

Developed by

**U.S. Centers for Disease Control and Prevention**



1



## Disclaimer

These course materials are for instructional use only and are not intended as a substitute for professional legal or other advice. While every effort has been made to verify the accuracy of these materials, legal authorities and requirements may vary from jurisdiction to jurisdiction. Always seek the advice of an attorney or other qualified professional with any questions you may have regarding a legal matter.

The case study was designed to be used without modification or editing and should not be used with the CDC or NSC logo or name if it has been changed at all.



# Public Health Emergency Law

CDC Foundational Course for  
Front-Line Practitioners

## Case Study



3



## Case Study Agenda

1:30 p.m.	Exercise Orientation
1:45 p.m.	Start Exercise
2:45 p.m.	Break
4:00 p.m.	End Exercise/Hot Wash
4:30 p.m.	Course Evaluation & Closing



## Case Study Purpose

---

- To facilitate interaction and networking among public health, emergency management, and law enforcement officials in order to foster mutual understanding of the legal authorities involved in management of a public health emergency
- To identify gaps in preparedness to address upon return home



5



•The purpose of this section of the course is to allow the class to take the lessons learned over the prior sections and put them into a practical experience.

•As you go through this exercise, please consider those items that need to be addressed upon return to your home jurisdiction, including:

- What would you like to do to increase your local/state preparedness when you return home?

## Case Study Objectives

By the end of this module, participants will be able to:

- Apply their understanding of the legal authorities relevant to public health emergencies across public health, emergency management, and law enforcement disciplines.
- Increase coordination of public health and emergency management response to public health emergencies.
- Increase their understanding from previous course presentations.



6



•In summary, the purpose of this unit is to allow participants to:

- Apply knowledge and skills
- Coordinate with other agencies
- Increase level of understanding of the material covered earlier in this course.

## Case Study Methodology

- Discuss a simulated case study
- Receive information at the same time
- Time will be compressed
  - 60 days in 2 hours
- Work with the scenario



7



**Instructor:** *You should know that, for this exercise, there is a single scenario: spread of pneumonic plague. Please do not share this with the class at this time, but hold as background unless someone interprets this from the data.*

- Please define the shorthand for the timeframe:

D = today

D-7 = 1 week ago

D+4 = 4 days from now

D+7 = 1 week from now

D+21 = 3 weeks from now

D+60 = 60 days/2 months from now

- Work with the scenario:

- Not everything may fit with a perfect description of this type of event.
- Please go with it to the best extent possible.
- Please feel free to point out discrepancies to the instructors AFTER the course.

## Move 1

### 7 days prior to today (D-7)

- Based on credible but unspecified intelligence suggesting imminent terrorist threats against U.S. targets, the Secretary of DHS makes public announcement and raises the National Alert Level from YELLOW to ORANGE.
- This state has been specifically identified as a potential target for this threat.



8



• It is not clear whether any action is required at this phase.

- Some may say no action at all, while others might feel that it is a time to raise awareness, check preparedness status and be ready to go.
- This could lead to an interesting discussion on the value of the Homeland Security Alert System.

**Instructor:** *Try to keep the class on focus regarding if there is a reason to take specific actions as a result of this information.*

#### Discussion question:

- How might you have heard of this public announcement?
  - Direct page from the DHS alert networks
  - TV/radio/newspaper
  - Call from partner agency, such as state/local Emergency Management
- In a perfect world, how would you like to hear about it?

## Tasks - Move 1 (D-7)

- Task A: What implications does elevation of the alert level have for you in your capacity?
  - Do you call anyone?
  - If so, whom do you call and why?
- Task B:
  - What other actions/interventions, if any, do you take at this time?
  - Why?



9



### Task A:

Implication: Must be ready in the event of an attack.

•Options for response include:

1- Nothing

2- A subset of the following calls: (See Units 1 and 2):

- PH Director calls county/city Emergency Management Agency (EMA) Director
- EMA Director calls local Counter Terrorism Task Force Director for initial coordination and sharing of information
- If specific public health threat, EMA Director should call the PH Director

•Assumption is that a close working relationship has already been established through joint planning and exercises.

Instructor: *May want to rephrase as a question:* What is the nature of the relationship between these agencies?

### Task B:

•Options for response include:

- Place key public health agency personnel on alert, including agency general counsel
- Review Community Public Health Bioterrorism/Chemical Response Plan
- Review legal procedures and draft documents for: (See Unit 3)
  - Quarantine
  - Voluntary home confinement (up to and including yellow tape around a city)
  - Hospitalization
  - Hearing requirements/individual rights
- Review draft documents and draft template/contingency contracts providing for:
  - Food, medical care, and minimal needs for those potentially held in quarantine or isolation
  - Needs of special populations: elderly, handicapped, infirm, dialysis patients, etc.
  - Dietary restrictions.

•Issue warning advisory to total health community: hospitals, clinics, pharmacies, labs, EMS services, private medical practitioners, medical suppliers.

Bottom Line: Preparedness, proactive anticipation: not waiting for an attack to happen.

## Move 2

### 7 Days from Now (D+7)

---

- 5 days ago, two area hospitals report to local health department a total of 22 pneumonia cases (50% increase over normal)
  - 9 of 22 attended same ballgame 5 days ago
- 3 days ago, 2 patients, previously young, healthy adults without complicating medical conditions, die.
- Preliminary data for cause of death appears to be a “fulminate gram negative bacterial pneumonia and sepsis.”



10



- 3 days ago, 2 patients, previously young healthy adults, without complicating medical conditions, expired.
  - Had attended the same regional high school basketball tournament as 9 other patients
  - Symptoms seem to have non-natural cause.
- At this point we should not be sure what the diagnosis is.
  - Some may correctly read from the 3rd bullet on slide 9 and/or 2nd bullet on slide 11 that this is plague and this is bioterrorism (as opposed to SARS or pandemic flu).
  - If so, ask how they confirmed this?

#### Discussion question:

- How can you determine natural causes of public health events, such as SARS & avian flu vs. bioterrorism?
  - How is that impacted by an alert, such as the one issued earlier?

## Move 2

### 7 Days from Now (D+7)

#### TV news reports:

- Scores of cases of illness being reported in this region of the State
- Hundreds admitted to hospitals with high fever, cough, and chest pains
- County health department reports 145 cases
- 40 hospital cases were shoppers at Cimedipe Shopping Mall – being interviewed by FBI
- The Lt. Governor has asked the Governor to close the state's borders



11



•Some may not be sure yet as to what the diagnosis is, while others may have derived the plague as an agent from the 3rd bullet on slide 9 and 2nd bullet on this slide, and further concluded that this is bioterrorism (as opposed to SARS or pandemic flu).

- Take a quick poll of thoughts and diagnosis at this time
- Then announce that CDC Lab has confirmed a diagnosis of plague.
- It is useful to know the exact diagnosis because that drives all subsequent disease control measures. If this is plague, then contact tracing can be performed, isolation and quarantine can be instituted, and antibiotic prophylaxis (but not vaccine) can be administered.
- The 5th bullet indicates that the Lt. Governor has asked the Governor to close the state borders, which in turn makes this a huge emergency requiring all of the resources of the state and federal government.
  - This clearly brings law enforcement into the equation; there should be a discussion about rules for engagement with people coming to/fleeing from the state as well as discussions about the many, serious and complex problems resulting from travel restrictions
    - What if incubating persons would have left the state prior to D+7? (There will be “outbreaks” starting in other states and countries.)
      - What happens to states that closed borders, but still have outbreaks? Who do they alert? (Other states, CDC, FBI?)
      - These additional outbreaks/epidemics of a strain that seems to spread easily create competition for resources at the federal level.
  - Does closing the state's borders raise any constitutional questions regarding impeding interstate commerce?
    - States are generally not permitted to restrict interstate commerce, which usually means that they cannot enact rules discriminating against the commerce of one state in favor of their own.
    - Emergency public health measures interrupting all transportation to and from other states may be permissible for a short period of time. Does the public health require that the disruption of transportation be at a state's border and not between different areas in the state? How will transportation of necessary food and supplies be handled?
    - Coordination with federal authorities, and use of federal powers to restrict transportation for public health, will be critical for any longer term efforts.

**Note:** Cimedipe is a made up location, “epidemic” spelled backwards; no similar location shows up in a Google search.

## Tasks - Move 2 (D+7)

- Task A: Is there a need for declaration of an emergency? If so, what type and by whom?
- Task B: What additional interventions/actions do you consider at this time?
- Task C: Do these actions require something you cannot get without a declaration? If so, what type is needed?
- Task D: What are the current relationships of emergency management and law enforcement with public health?



12



### Task A: (see Unit 2)

- Yes/no?
- Why?

### Task B: (see Unit 3)

- Isolation/quarantine/prophylactics/immunization)
  - According CDC website, proper treatment for plague is antibiotics
  - Mandatory treatment could prevent spread
- Setting up extra facilities/casualty collection points
- Taking over secondary facilities
  - Are there extra hospital capacity/annexes?
  - Are there issues if you do this? i.e. integrating hospital personnel with surge personnel; liability; does this differ if non-medical facilities are used such as: schools (public/private), convention centers, hotels, military facilities, or houses of worship?
  - How do you staff?
    - Use of National Disaster Medical System teams
    - Use of Medical Reserve Corps
    - Volunteers
  - How to equip and supply?
    - Strategic National Stockpile (SNS) Program
  - What messages do you give out to the public?
  - Is quarantine required?
    - If so, is a mandatory quarantine required, or are there other less restrictive actions that are appropriate?
      - Options: shelter in place, quarantine in place and work quarantine.
      - Is there any confusion as to what kind of quarantine was imposed?
      - Or is this bullet intended to cause discussion of relaxation of type of quarantine?
    - Some of the key issues in quarantine need to be addressed at the beginning:
      - Development of the quarantine orders, filing with courts, development of affidavits demonstrating that the measures are required for public health.
      - The obligation to justify forced detention before a judge will likely come much earlier.

### Task C: (see Units 5 & 6)

- So far no, unless someone brings up federal funding or military assistance, but if they do, we do need a declaration.

### Task D: (see Unit 1)

- Keep them focused on this scenario and the strains that might come out of it, not on the general relationship of law enforcement to public health.

## Move 3

### 21 Days from Now (D+21)

- Hundreds of new cases reported in industrial city center and western suburbs.
  - Regional transportation system has shut down
- Work force decimated by quarantine
  - Legal challenges emerging
- TV news reports on source of illness, side effects and rumored inadequacy of vaccine conflict with CDC statement.
- President declares Stafford Act Emergency



13



•Somewhere between D+7 (slide 11) and D+21, some other actions taken most likely include:

- Mobilizing/reassigning volunteer health care providers, triage/screening of people going to hospital EDs, and surveillance of hospital bed capacity; all of these tasks are related to surge capacity in the health care system.
- In addition, there are tasks related to surge capacity of the public health system, i.e., gearing up for contact tracing, issuing quarantine orders, enforcing quarantine, conducting surveillance.
- Finally, there are tasks related to surge capacity in communications, meaning that the various agencies involved in an emergency need to determine the following:
  - Where they will meet
  - How often they will meet
  - Where the various operation centers will be located
  - How information will be cleared for distribution, and
  - How communications will be handled/managed with all of the various agencies, organizations, and persons involved in the response.

## Tasks - Move 3 (D+21)

- Task A: What key legal quarantine issues need to be addressed at this time?
- Task B: How are needs of dependent worker families to be met?
- Task C: Who communicates with multiple reporters from local, state, and national news media?
- Task D: Are needs of special populations being addressed – elderly, handicapped?



14



### Task A: Potential answers include (see Unit 3)

- Has quarantine been successful?
- How much longer do people need to be quarantined?
- Has everyone's right to due process been protected?
- Have obligations to those quarantined (food, medical care, sanitation) been upheld?
- What potential exposures have we left ourselves open to?
- What other quarantine options could/should be pursued
  - E.g. shelter in place/snow day, voluntary quarantine, work quarantine

### Task B:

- What have we done to address those needs?
- Have FEMA, Social Security & Red Cross set up Individual Assistance yet
- How can services be provided while protecting the service providers?
  - If not, what is the liability of/for/by the providers?

### Task C:

- Participants should review the communications principles of Unit 6
- Your public message in a crisis must be:
  - How to minimize exposure/infection
  - How to identify the symptoms
  - How to treat/avoid spreading
  - Where to go for help
- Interesting issues about who communicates:
  - There is no legal prohibition on any state or local official or private care provider regarding talking to the press.
  - All of them will, in fact, communicate to the news media.
  - But hopefully, by working through or in conjunction with the Joint Information Center, there will be some consistency about what is communicated.

### Task D:

- Answer is yes
- Follow-up: How? (see Unit 3)
- 2nd follow-up: What would have happened if their needs weren't met?

## Move 4

### 60 Days from Now (D+60)

---

- New case numbers and deaths continue to decrease
- However, thousands of “worried well” and people with unrelated respiratory infections continue to seek treatment at area hospitals
- Workplace quarantine and health safety issues continue
- Hospitals are complaining about unpaid bills



15



• Situation has moved from response into recovery

## Tasks - Move 4 (D+60)

- Task A: Are there lawsuits re: quarantine, isolation, prophylactics, immunization?
- Task B: How are patients/victims tracked?
- Task C: How are mortuary issues addressed?
  - What resources are available?
  - What legal issues require balance of victim rights vs. protecting public health?
- Task D: Are you still in the response or recovery phase of the public health emergency? Does it matter?



16



### Task A:

- Answer is yes
- Follow-up question: What can be done to mitigate or resolve these lawsuits?
  - Opportunity to review communications issues in Units 3 & 6
  - May also review *Least Restrictive Means Necessary* items in Unit 3
  - Lastly, consider reviewing *Minimizing Liability* and *Sovereign Immunity* from Unit 1

### Task B:

- Were they being tracked? (See *Surveillance* in Unit 2)
- How did this occur?
- At what point did this start?
- What has been the outcome of the tracking?
- What protections are there for the patients being tracked?

### Task C:

- Resources:
  - Were the DMORTs called in?
  - Are there other potential resources that can be called in? Under what legal conditions?
- What legal issues require balance of victim rights vs. protecting public health?
  - Cremation vs. burial
  - Embalming vs. not
  - Religious/spiritual vs. health issues
    - Are the participants aware of the religious issues?
    - Certain religions require specific mortuary practices
      - Embalming or cremation may be prohibited
  - What legal protections/restrictions impact this?

### Task D:

- Should be in recovery
- Issue is the types of funding and services available (see Units 1 & 2)

## Case Study Hotwash/Summary Issues

---

- Task A: Identify top five legal issues for public health and emergency management agencies before, during, and after a public health emergency
- Task B: Identify key changes that may be needed in your jurisdiction to better address a major public health emergency



17

**Tasks A & B:**

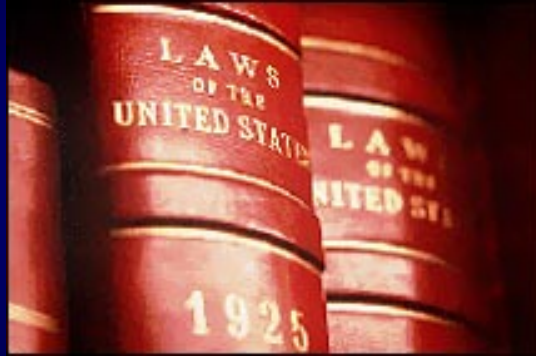
- Review objectives/summary from all 6 units
- Review *Quarantine/Isolation/Treatment* guidelines in Unit 3 and *Reimbursement/Communications* guidelines in Unit 6

**Instructor:** Please record detailed notes of the responses to these Hot Wash/Summary tasks.

## End: Case Study

---

For additional  
information on  
Public Health  
Law visit the  
*CDC Public  
Health Law  
Program*



[www.cdc.gov/phlp](http://www.cdc.gov/phlp)

